

REMARKS

The Office Action mailed February 17, 2009 has been carefully considered.
Reconsideration in view of the following remarks is respectfully requested.

Claim Status and Amendment of the Claims

Claims 1-38 are currently pending.

The Applicant gratefully acknowledges the indication of allowance of Claims 1-17 and 38.

Claims 18 and 21 have been amended to further particularly point out and distinctly claim subject matter regarded as the invention. Support for these changes is found in the specification, claims, and figures as originally filed. The amendment also contains minor changes of a clerical nature. No “new matter” has been added by the amendment.

No amendment made is related to the statutory requirements of patentability unless expressly stated herein. No amendment is made for the purpose of narrowing the scope of any claim, unless Applicant argues herein that such amendment is made to distinguish over a particular identified reference or combination of references. Any remarks made herein with respect to a given claim or amendment is intended only in the context of that specific claim or amendment, and should not be applied to other claims, amendments or aspects of the Applicant's invention.

The 35 U.S.C. § 101 Rejection

Claims 18-37 stand rejected under 35 U.S.C. § 101 as allegedly being directed to non-statutory subject matter, among which Claims 18 and 21 are independent claims. With this Amendment, independent claims 18 and 21 have been amended to recite in part “a memory.” Support for this Amendment is found in the specification, figures, and claims as originally filed. Additionally, Claim 18 is a non-means-plus-function apparatus claim corresponding to allowed method claim 1, and Claim 21 is a means-plus-function apparatus claim corresponding to allowed method claim 1. Accordingly, withdrawal of the 35 U.S.C. § 101 rejection is respectfully requested.

Conclusion

In view of the preceding discussion, the Applicant respectfully urges that the claims of the present application define patentable subject matter and should be passed to allowance.

Allowable Subject Matter

The Examiner is thanked for the kind allowance of Claims 1-17 and 38. The Applicant acknowledges the Examiner’s statement of reasons for allowance as set forth in the Office Action. However, the Applicant points out that the reasons for allowability of the above referenced claims are not limited to the reasons for allowance as set forth in the Office Action, and that additional reasons for allowability may exist, each of which may be independently sufficient to establish the patentability of one or more pending claims.

The Applicant respectfully reserve the right to introduce, articulate, or otherwise comment on any such additional reasons for allowance as may be appropriate in any future proceedings concerning the claimed invention.

If the Examiner believes that a telephone call would help advance prosecution of the present invention, the Examiner is kindly invited to call the undersigned attorney at the number below.

Please charge any additional required fees, including those necessary to obtain extensions of time to render timely the filing of the instant Amendment and/or Reply to Office Action, or credit any overpayment not otherwise credited, to our deposit account no. 50-3557.

Respectfully submitted,
NIXON PEABODY LLP

Dated: August 17, 2009

/John P. Schaub/
John P. Schaub
Reg. No. 42,125

NIXON PEABODY LLP
200 PAGE MILL ROAD 2ND FLOOR
PALO ALTO, CA 94306-2022
TEL. (650) 320-7700
FAX. (650) 320-7701

12673445.1